



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 29, 2018
MAHS Docket No.: 18-001854
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 22, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Food Assistance (FAP) benefit amount?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner is an ongoing recipient of FAP benefits in the amount of [REDACTED] a month.
2. The Petitioner completed an application for FAP on January 12, 2018 for herself and [REDACTED] minor children. Exhibit 2.
3. The Petitioner reported that her daughter started employment with [REDACTED] on November 30, 2017. The Petitioner also reported child support of [REDACTED] monthly. Exhibit 2, p. 13-14.

4. The Petitioner provided pay stubs from her daughter's employment of [REDACTED] [REDACTED] for January 2018. The gross income used for FAP budgeting of the income was [REDACTED]. Exhibit 3.
5. The Petitioner's gross income was determined to be [REDACTED] monthly based upon weekly earned income of [REDACTED] Exhibit 4.
6. The total earned income for the FAP group was [REDACTED] monthly which included unearned income for child support of [REDACTED] which was not correct due the child support being \$ [REDACTED]
7. The Petitioner has a [REDACTED] rent expense and pays for heat and was given a utility allowance of [REDACTED]. The Petitioner's FAP group consists of 3 members; none of the members are disabled.
8. The Petitioner receives child support of [REDACTED] monthly for child [REDACTED]. The Department used a child support amount when calculating the FAP benefits of [REDACTED]
9. The Department issued a Notice of case action on January 25, 2018 approving the Petitioner for FAP benefits of [REDACTED] monthly effective February 1, 2018 ongoing. Exhibit 6.
10. The Petitioner requested a timely hearing on February 8, 2018 protesting the Department's actions regarding her FAP benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Petitioner sought review of her current FAP benefit allotment of [REDACTED] a month. The FAP budget was reviewed at the hearing and was determined to be correct with respect to the groups earned income, housing expense and group size and standard deduction. The child support income amount used to calculate the benefits of

██████████ by the Department was not correct. The Department determined at the hearing that the correct amount was ██████████ monthly. Thus, it is determined that the Petitioner receives child support of ██████████ based upon the Department's review at the hearing. Given the discrepancy in the child support amount, the Department must recalculate the FAP benefits to utilize the correct child support income amount. The FAP Edg Net Income Results (FAP budget) and the Excess Shelter budget calculation were reviewed at the hearing. Exhibit 7.

The following amounts used by the Department to calculate FAP benefits are correct and were confirmed by Petitioner at the hearing. Earned income for the group was ██████████. The FAP group size was 3 members and the housing cost were ██████████ which included rent of ██████████. The Department also provided a Heat and Utility allowance of ██████████ and a standard income deduction of ██████████ based on a group size of 3. No group member is disabled. Determine the monthly earned income, the pay stubs are added together for the last 30 days, and divided by the number of pay checks to get the average weekly or bi weekly amount depending on how the individual is paid. This average amount is then multiplied by 4.3 for weekly pay or 2.15 for biweekly pays and this provides the monthly income. See BEM 505 pps. 6-7 and BEM 556 (January 2017), p. 3. Based upon the pay stubs submitted for both Petitioner (██████████) and her daughter (██████████) the total earned income as determined by the Department is correct.

All countable earned and unearned income available to the client must be considered in determining the Petitioner's eligibility for program benefits. BEM 500 (July 2016), pp. 1 – 4. The Department considers the gross amount of money earned or received from RSDI social security income due to disability. BEM 503 (July 2016), pp. 31-32.

The deductions to income on the net income budget were also reviewed. Petitioner has a FAP group of three members BEM 550 (February 2016), pp. 1-2. Groups are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Medical expenses for the SDV member(s) that exceed \$35.
- Standard deduction based on group size.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2016), p. 7; BEM 556 (July 2013), p. 3.

In this case, Petitioner had earned income and therefore the Department was required to apply a 20% earned income deduction which was ██████████ which was deducted from the gross income resulting in Post earned income of ██████████. The earned income deduction will not change due to the error in child support amount received because child support is unearned income. There was no evidence presented that Petitioner had any dependent care expense. Therefore, the budget properly did not include any deduction, dependent care expenses, and medical expense. Based on

confirmed 3-person group size, the Department properly applied the \$160 standard deduction. RFT 255 (October 2016), p. 1.

When the Standard Deduction of \$160 is deducted from the post earned income of [REDACTED] the Department determined the adjusted gross income to be [REDACTED] however it is determined that the Department incorrectly determined the Adjusted Gross income due to the child support error. The adjusted gross income should be the difference between the child support used of [REDACTED] and the correct child support of [REDACTED] Exhibit 7.

In calculating Petitioner's excess shelter deduction, the Department must determine the eligible monthly shelter costs. The Department properly considered Petitioner's [REDACTED] monthly housing expense for rent and [REDACTED] a heat and utility allowance as the Petitioner pays for heat. See BEM 554, pp. 16-19. The Department correctly determined the shelter expenses to be [REDACTED]. A review of the excess shelter deduction calculation and Department policy shows that the Department used a higher adjusted gross income figure due to the child support error. The correct excess shelter deduction is determined by taking the Petitioner's total housing costs of [REDACTED] minus one half of the new adjusted gross income or [REDACTED] (50% of [REDACTED]). When the 50% of the adjusted gross income is removed from the housing cost the correct excess shelter amount is [REDACTED]. Thus, based upon use of the correct child support it is determined that Petitioner was eligible for an excess shelter deduction of [REDACTED]. BEM 556, pp. 4-5; RFT 255, p. 1.

In determining monthly net income, the shelter expense of [REDACTED] is deducted from the adjusted gross income and the net income is [REDACTED]. [REDACTED]. Based on net income of [REDACTED] and a FAP group size of 3 members, the Petitioner is entitled to and eligible for monthly FAP benefits of [REDACTED]. BEM 556; RFT 260 (October 2017), p. 13.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Petitioner Food Assistance.

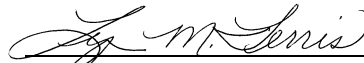
DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate and redetermine the Petitioner's FAP benefits and using the correct child support unearned income received and recalculate the FAP benefits accordingly.
2. Based upon the recalculation the Department shall if the Petitioner is otherwise eligible issue a FAP benefit supplement for FAP benefits the Petitioner is eligible to receive in accordance with Department policy.

LF/tm



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
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[REDACTED] [REDACTED]
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